

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SMITHKLINE BEECHAM CORPORATION,
d/b/a GLAXOSMITHKLINE,

Plaintiff,

v.

ABBOTT LABORATORIES,

Defendant.

No. C 07-5702 CW

ORDER MOTIONS IN
LIMINE

(Docket Nos. 650
and 656)

As discussed at the final pre-trial conference, held on April 8, 2015, the Court rules on the parties' motions in limine as follows:

GSK's Motions in Limine

1. Preclude Abbott from Introducing Evidence of Kolassa's "Reasonable Market Behavior" or "Reasonable Pricing" Analysis

DENIED. Kolassa may testify to this analysis, but counsel and Kolassa shall limit their use of the word "reasonable" and Kolassa shall explain what he means by the word "reasonable" during direct examination.

2. Preclude Abbott from Introducing Evidence re Kolassa's Explanation for GSK's Decision to Diminish Lexiva Marketing

DENIED, except that Kolassa may not opine that Lexiva is clinically inferior.

Abbott's Motions in Limine

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2 1. Exclude Dr. Prowse's Damages Opinions

3 DENIED. Dr. Prowse may testify to his damages opinions, but
4 he may not refer to conversations he had with employees
5 after submitting his report as support for the opinions in
his reports.

6 2. Strike Paragraphs 13 and 14 of Dr. Dolan's Supplemental
7 Rebuttal Report

8 DENIED.

9 3. Bar Dr. Siddiqui From Testifying on the Effect of the Price
10 Increase on Lexiva or Prescribing Habits

11 DENIED. Dr. Siddiqui may testify to these subjects as he was
permitted to do in the 2011 trial.

12 4. Bar GSK from Offering Dr. Prowse's Opinion on Restitutionary
13 Damages

14 GRANTED.

15 5. Bar GSK from Referring to GSK and Abbott as "Partners"

16 DENIED, but counsel shall limit the use of the word "partner"
17 and clarify the lay meaning of the word "partner" during
direct examination.

18 6. Bar Parties from Using Antitrust Terminology Such as
19 "Monopolist," "Monopoly Power" or "Market Power"

20 DENIED, though the parties shall limit their use of such
21 terms.

22 Finally, during the Final Pretrial Conference, counsel for
23 Abbott provided the Court with a recently-produced GSK report
24 regarding the "Lexiva HC4 Pilot" program. The report may be
25 germane to GSK's damages and the report indicates that GSK may
26 have undertaken subsequent analysis of the pilot program. Abbott
27 asked the Court to reopen discovery. As the Court indicated at
28

1 the hearing, the Court will reopen discovery to permit Abbott to
2 request expedited production of documents related to the pilot
3 program.

4 Dated: 04/10/2015

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6 CLAUDIA WILKEN
7 United States District Judge
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